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OGC Has Reviewed

OLC-78-3454/2

13 November 1978

DD/A Registry

78-2594/25

MEMORANDUM FOR : Deputy Director for Administration
Deputy Director for Operations
Deputy Director for Science & Technology
Deputy Director, National Foreign Assessment
General Counsel
Inspector General

FROM : Principal Coordinator, HSCA
Office of Legislative Counsel

SUBJECT : Handling of HSCA Draft Reports

REFERENCE : DDCI Approval of Working Agreement with
HSCA

1. This memorandum is to outline the procedures for handling draft reports by HSCA. A copy of reference is attached.

2. In essence, the HSCA has proposed that we engage in an informal exchange on draft reports by the Committee. The Committee has a basic condition for this exchange, however, that there be no record of substantive exchanges. There have been some pointed dissents by the Agency to positions taken or indicated by the Committee, and the Committee would like the opportunity to address such disagreements in advance in order to resolve them where possible, without creating an unnecessary record of disagreement.

3. There are advantages in such an approach from the Agency's point of view, affording it the opportunity to correct both factual mistakes and points of view, at the same time that it addresses questions of security. The DDCI has approved engaging in this exchange, and the condition that there is no substantive record to be created during this phase of the review. If there are disagreements in the final phase, of course, the Agency is free to take such course of action as seems appropriate at that time.

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4. It is requested that your representatives meet with the undersigned at 1500, Wednesday, 15 November in the IG Conference Room. [redacted]

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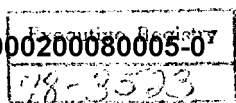
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Attachment
As stated

Added Distribution:

1 - OS [redacted] w/att
AI/DDA (17 NOV 78)

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OLC-78-3454

8 November 1978

MEMORANDUM FOR : Director of Central Intelligence

VIA : Deputy Director of Central Intelligence
Legislative Counsel

FROM : S. D. Breckinridge

SUBJECT : HSCA Proposal for Review of Preliminary Reports

1. Action Requested: There is a recommendation for your approval in paragraph 4.

2. Background: The Chief Counsel of the HSCA has proposed a procedure, outside the formal Memorandum of Understanding, for preliminary review of the draft reports prepared by the staff. We will be provided the reports and will convey our comments in a series of meetings. To avoid a record of the exchanges we must agree to keep no copies of the draft (we will be allowed to reproduce copies) and to prepare no formal papers; all Agency reaction will be kept in informal working notes that will be destroyed. We must commit ourselves to this and establish procedures that will insure compliance.


3. This will provide us with an opportunity to correct certain positions that have been developed at the working level in the HSCA staff, as well as avoiding the difficulties of coping with a large report within the agreed five days when it is finally ready for formal comment. We have stated that we insist that any exchanges be with senior staff members to insure that our corrections and views are accurately handled. A detailed memorandum of the discussion is attached.

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4. Recommendation: It is recommended that we accept Mr. Blakey's conditions and that the undersigned be authorized to so state to him.

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S. D. Breckinridge

Attachment:
As stated

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APPROV 

Director of Central Intelligence

DISAPPROVED:

Director of Central Intelligence

DATE: 11 NOV 1978

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OLC-78-3454/1

8 November 1978

MEMORANDUM FOR THE RECORD

SUBJECT : Review of HSCA Draft and Final Report

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1. [] and I met with Mr. Blakey for about three hours yesterday morning. Other memoranda will report separate subjects. This one will cover the essential points discussed concerning Agency review of the HSCA preliminary draft reports and the final reports.

2. Assuming that we agree on how to review the preliminary reports, we could begin to see them within the next week or so. The way in which Blakey proposes that this be done is outside the provisions of our Memorandum of Understanding. The five-day time limitation would not apply. The final report would be handled within the five-day time limit, and the other provisions of the Memorandum of Understanding. Mr. Blakey is talking as though we will not see the final report until February. Considerations arising from the February date will be treated in a separate memorandum. The present memorandum will concentrate on the proposed preliminary reports.

3. The motivation for the proposal is probably mixed. We have begun to demonstrate our readiness to take issue on a series of detailed specific subjects speaking in a number of instances at an unclassified level. Whether the HSCA staff expected our corrections and refutation is not clear, but it does tend to question the credibility of the HSCA work to this point on certain issues. Mr. Blakey states that he wants to be sure that his report is factually accurate and to insure this he is prepared to give us an opportunity to speak prior to the time that the reports are put in their final form for the Committee. He wants to know in advance what subject matter causes us a problem from the point of view of classification. He wants the advantage of our factual corrections. And he certainly wants to know our disagreements, where we do disagree, and the basis for them.

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4. Mr. Blakey states that the basic plan of the investigation envisions only two levels of records: first, there will be documents, records of interviews, transcripts of depositions and hearings; second, there will be the final report. It is intended that informal views during the evolution of the investigation will not be a part of the record, with people expressing views however they wish to along the way, but not for inclusion in the final report. I told him that the Inspector General follows a procedure somewhat like this, with documentation being limited and the final report speaking for itself.

5. I told Mr. Blakey that we welcome the opportunity for a candid exchange. Our concern is that the arms-length relationship, on substantive issues, to date, and the attitudes of his investigators (which we have discussed in some detail) gave us some reservation at this late date as to how things would go. We were aware that a number of the investigators not only had limited experience with large organizations, but that none of them really knew anything about the unique business of intelligence. We therefore had made a point of not only providing documents in response to requests, but also had offered explanations both written and oral to help. The way the Helms' testimony was handled, and the content of the HSCA Chairman's letter on Mexico City made it appear to us that the evidence was being ignored. As we knew these two presentations to be so far off target, some of the statements being outrageous, the Agency had no alternative but to reply for the record, because they had put it on the record. My initial reaction was that the facts we had brought to their attention had been ignored. Therefore, our full views in refutation of some of their positions had seemed best withheld until we reached the end. My concern was that if we pointed out the basis for our reasoning they would only adjust the language and not the presentation of facts and conclusions. As an example, I pointed out that we had told them orally and in writing that there had been no [redacted] prior to December 1963 in the [redacted] I said that this was in writing in their files and that it had been ignored. I said that quite frankly the letter had been written in such a manner that it had to be read conscientiously to get the message, and to that extent it

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25X1C might be considered a trap; the fact remains that everything we have done to correct them on this had been ignored. He said that there were some statements in our letter that they have found troublesome. I also told Mr. Blakey that we had interviewed the four people who were responsible for the [redacted] installations. They too had interviewed them all, but in at least one case had failed to even ask about the subject. I said we also have documentary evidence that all the photographs were available at the time of the investigation and were reviewed for this purpose. That some people not involved in the investigation retain the original belief that there was photography of Oswald (when it proved to be an unidentified man) is easily explained away. I said that I had some reluctance to reveal the details of our case on this, as his people had already had access to the very sources I would use, because of the question of credibility that had been raised in my mind about the way his staff works.

6. Mr. Blakey argues--persuasively, I believe--that it is to both our advantage to have an informal exchange prior to the final report. He states that the writing has not yet been accepted by him, much less by the echelons within the staff between him and the investigators. He wishes the report to be credible, and we assured him that we wished it to be as reliable and correct as possible. He says that there may be instances in which the Committee will say that it cannot reach a conclusion between two alternative lines of reasoning and will incorporate both.

7. Given the reservations one must still entertain about doing business with these people, based on their track record, I think that in balance, and in good faith, we should go forward with Mr. Blakey's proposal.

8. Under his proposal Mr. Blakey would provide us with preliminary drafts of different sections of the report. He wishes there to be no permanent written record within CIA on those draft reports or on our reaction to them. We explained the difficulty of having a number of different components (no one person having all the answers) reacting on a timely basis. Originally wishing no copies of the drafts to be made he agreed to our doing so if the copies were numbered and if all of them were returned to the Committee after we had the exchanges on them. We would have to commit ourselves to observe this strictly.

9. Mr. Blakey also wants no formal papers prepared

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in response to the drafts. He would agree to our taking and retaining penciled notes, not to be duplicated and to be destroyed when the exercise is over. It was pointed out that some people work on typewriters and he agreed that informal working notes developed in that manner could be handled with typewriters. While he indicated that he might want these notes delivered to the Committee, we probably can agree to mutually witnessing their destruction in shredding machines here at the Agency.

10. In essence we would have an opportunity through this exercise to improve and correct presentations by the HSCA staff, prior to their review up the line. We would have an opportunity to face questions of classification early instead of late, many of them being subject to being worked out in some way prior to the final presentation of the report. Coincidentally, it will provide us with an opportunity to inform ourselves of the direction that the Committee staff seems to be taking, some of which we already know, and refine our preparation for the ultimate report if objectionable sections continue essentially unchanged. I think we have more to gain than to lose by this process, and it may open the way for constructive substantive exchanges that have been denied us to date. The arms-length tactic of the Committee has permitted hostilities to grow, if not actually feeding them, and some of the HSCA staff attitudes can be attributed to this. It seems the last chance we have to test the professional integrity of the staff, and we hope to take it.

11. Mr. Blakey wants our firm commitment that there will be no notes, or copies of the draft reports retained. If we will not agree to this he feels that he cannot go through with this exercise and still live within the plan noted above.

[Redacted Signature Box]

S. D. Breckinridge

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